

REMARKS

This paper is a response to the Notice of Non-Compliant Amendment dated December 31, 2008. The Office Action mailed June 30, 2008 has been carefully considered. Within the Office Action Claims 2, 4-7, 10, 22-25, 27 and 28 have been rejected. The Applicant has amended Claims 2, 22 and 28. Reconsideration in view of the following remarks is respectfully requested.

Rejection under U.S.C. § 102

Claims 2, 4, 5, 10, 22-24, 27 and 28 stand rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent No. 6,422,941 to Thorner et al. (hereinafter “Thorner”). The Applicant respectfully traverses.

According to the M.P.E.P., a claim is anticipated under 35 U.S.C. § 102(a), (b) and (c) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.

Claims 2, 13 and 22 all recite that an average of sound magnitudes are computed in each frequency range as well as that the haptic effect is determined for one or more sound features that have a sound magnitude above a threshold value from the average. This is not taught or disclosed, expressly or inherently in Thorner.

Instead, Thorner discloses that the raw bass, mid-range and treble signals are each processed based on 11 analysis factors (shown in Figure 12). In particular, the raw signals are copied and buffered in a memory whereby the buffered signal undergoes the calculation such that the processed bass, mid, and high signals are then combined to yield a single host-independent master control signal. The calculated signals are combined by selecting a value corresponding to the highest value among the three calculated values, although a weighted

average can be used. (Thorner, Col. 13, Lines 52-67). It should be noted that the weighted average referred to in Thorner is not the same as calculation of a running average in each frequency range. Further, Thorner does not teach or suggest outputting the haptic effect when a threshold value is above the computed average. For at least these reasons, Thorner does not teach or suggest each and every element/limitation in Claims 2, 22 nor 28. Therefore, allowance of Claims 2, 22 and 28 is respectfully requested.

Claims 4-7, 10, 23-25, and 27 are dependent on Independent Claims 2, 22 and 28, respectively. As stated above, Claims 2, 22 and 28 are allowable over the cited references. Accordingly, Claims 4-7, 10, 23-25, and 27 are allowable for being dependent on allowable base claims.

Conclusion

It is believed that this reply places the above-identified patent application into condition for allowance. Early favorable consideration of this reply is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-3557.

Respectfully submitted,

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